

# **EXHIBIT 8**

H0276980.TXT

0001

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

TROY ETTS and LEA ETTS,  
Plaintiffs,

vs.

Case No. 13-11588  
Hon. Mark A. Goldsmith

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, as trustee for  
Securitized Asset Backed  
Receivables, LLC, Trust 2004-  
NCI, Pooling and Servicing  
Agreement dated as of April 1,  
2004; and OCWEN LOAN SERVICING,  
LLC,  
Defendants.

The Deposition of LEA ETTS,  
Taken at 455 East Eisenhower Parkway,  
Ann Arbor, Michigan,  
Commencing at 10:36 a.m.,  
Monday, August 31, 2015,  
Before Dora L. Benson, CSR-6110.

0002

APPEARANCES:

KELLI C. MEEKS  
Level one Legal Services  
455 East Eisenhower Parkway  
Suite 240  
Ann Arbor, Michigan 48108  
(734) 274-4329  
kmeeks@levelonelegal.com  
Appearing on behalf of the Plaintiffs.

DEBORAH S. LAPIN  
Hertz Schram  
1760 South Telegraph Road  
Suite 300  
Bloomfield Hills, Michigan 48302  
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Appearing on behalf of the Defendants.

ALSO PRESENT:  
Troy Etts

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20 kids are little, and I wouldn't want to make them go  
21 through that to give their dad bone marrow, because  
22 they most likely are a match. And so they would need  
23 to wait until they're adults --

24 Q. That's fine.

25 A. -- to do that.

0040

1 Q. Let's just do this.

2 what is -- what's the amount of Social  
3 Security Disability that your husband gets every  
4 month?

5 A. He gets, like -- I think it's, like, \$900 a month.

6 Q. Okay.

7 A. I believe. I can't say specifically. It might be,  
8 like, 901 something.

9 Q. Has that been consistent since he went on it?

10 A. It raised a little bit.

11 Q. Okay.

12 A. Not much. Like, maybe \$20 or something.

13 Q. And you said that that started coming in in  
14 approximately 2009?

15 A. Later in 2009.

16 Q. Right. Right.

17 A. Because that's a five-month wait period --

18 Q. Right. Right.

19 A. -- for that as well, so --

20 Q. Okay. So let's say late --

21 A. So it was, like, August or September of 2009 I  
22 believe.

23 Q. All right. And then what -- how would that compare  
24 to -- and I don't mean for you to give me an absolute  
25 100 percent estimate.

0041

1 A. Uh-huh.

2 Q. What had your husband -- prior to his getting sick --

3 A. Uh-huh.

4 Q. -- what had been his average salary per year?

5 A. I -- I'd have to look back at tax returns.

6 Q. Okay.

7 A. And also because, you know, that was so long ago  
8 that --

9 Q. Okay.

10 A. -- I would have to look at that.

11 Q. Did anybody direct you to stop making the loan  
12 payments when you stopped in 2011?

13 A. There was a time when something happened where it was  
14 mentioned about that, but I didn't -- you had to be  
15 behind in payments or, you know -- somebody mentioned  
16 something about that, but I didn't do it and I didn't  
17 stop. I made the payments that I was supposed to be  
18 making.

19 Q. I guess my question is -- and I appreciate that you  
20 were very clear. You think you last made a mortgage  
21 payment in April or May of 2011?

22 A. Yeah.

23 Q. My question was did anybody direct you to stop making  
24 those payments? And if you don't recall --

25 A. Yeah, I don't recall.

0042

1 Q. -- you don't recall.

2 A. Yeah. I can't recall specifically about that, because  
3 I had to go and get a -- in 2011 -- I guess I  
4 misunderstood that.

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0064

1 Orleans that said that they never -- any of them that  
2 said we didn't review your documents -- that told you  
3 that?

4 A. Repeat that again.

5 Q. Sure. Do you have any documentation from Ocwen,  
6 Litton or Orleans that said to you, thank you, we  
7 didn't -- we didn't review your documents?

8 A. I don't think so.

9 Q. Okay. Page -- paragraph 44 says Defendant Ocwen  
10 likewise failed to honor its direct and various  
11 representations and assurances that a review of the  
12 loan for the modification would occur and no  
13 foreclosure would proceed during the process when it  
14 executed foreclosure sale upon plaintiffs' home during  
15 the pending modification process.

16 I am just trying to get the date of  
17 these -- what says here direct and various  
18 representations and whether those are in writing other  
19 than what we've already discussed.

20 A. And your question in regards to that is again?

21 Q. My question is, I'm just trying to break down the  
22 names of the representative and the dates of the  
23 communication and whether they were oral or writing or  
24 both.

25 MS. MEEKS: To the extent the question

0065

1 seeks any information preceding September 1, 2012, I'm  
2 going to object to relevance, form and foundation.

3 THE WITNESS: And I thought I had said that  
4 before. I can't specifically say exactly who or --

5 BY MS. LAPIN:

6 Q. That's fine.

7 A. -- what dates. I know -- I know of September 12th  
8 when --

9 Q. We're going to get to that. Yeah. Yeah.

10 A. Okay.

11 Q. That's all I'm trying to get to.

12 A. I know that -- yeah. And we had an attorney. Yep.

13 Q. And that attorney, tell me again what the date of his  
14 retention was?

15 A. It was around August -- July or August.

16 Q. 2011?

17 A. 2011, yeah.

18 Q. Okay. Okay. And what was the date that he ceased --  
19 you ceased his representation?

20 A. I believe it was -- I need to -- I would have to look  
21 specifically, but I believe it was September 5th,  
22 2012.

23 Q. Stein ended?

24 A. Correct. Because the foreclosure was not to proceed.  
25 And we no longer needed him because --

0066

1 Q. I was going to say, why did you end your relationship  
2 with him?

3 A. Because -- because of the conversation between Ocwen,  
4 myself and Russell Stacks, is that I -- they were  
5 going to review for a loan modification. I was on the  
6 phone with them, and they did a whole -- with Russell  
7 Stacks, a three-way phone call --

8 Q. And Erik?

9 A. No.

10 Q. Oh, it was you just --

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11 A. Me -- myself, Russell Stacks and that, because --  
 12 Q. And you said it was a Monroe County sheriff who also  
 13 was in on this three-way conversation?  
 14 A. No. Erik Stein had called him to make sure that the  
 15 sale wasn't going to proceed, because I had talked to  
 16 the representative, and they sent me the -- me the  
 17 loan modification papers. And we have that date right  
 18 here.  
 19 Q. All right. And what representative was it that you  
 20 talked to?  
 21 A. It would be in the notes of who we spoke to.  
 22 Q. Okay.  
 23 A. Because that is documented. HUD has that as well.  
 24 Q. Okay.  
 25 A. And Russell Stacks was on the three-way phone call.

0067

1 He initiated the phone call from his line.  
 2 Q. With someone from Ocwen you're saying?  
 3 A. Yes.  
 4 Q. Okay. That's what I was confused about.  
 5 A. Yes.  
 6 Q. And you said it was a man from Ocwen; right?  
 7 A. Yes.  
 8 Q. Okay. But it was not Mr. Kumar?  
 9 A. I can't say for sure if it was or not. I can't  
 10 recall.  
 11 Q. Do you have Russell Stack's contact info?  
 12 A. Yes.  
 13 Q. Do you have that at home or do you have that with you  
 14 now?  
 15 A. I don't know. I gave it to my attorney.  
 16 Q. Okay.

MS. MEEKS: I can get that for you.  
 MS. LAPIN: All right. That's fine.

19 BY MS. LAPIN:

20 Q. Have you talked to him recently?  
 21 A. No.  
 22 Q. Have you talked to Erik Stein recently?  
 23 A. No.  
 24 Q. So let me ask you this. So you ended your  
 25 relationship with Erik Stein because you thought there

0068

1 was not going to be a foreclosure, and then you did  
 2 learn that there was a foreclosure?  
 3 A. After it already happened.  
 4 Q. Right. Did you go back to Stein?  
 5 A. No.  
 6 Q. Because you feel --  
 7 A. Yeah.  
 8 Q. Okay. You weren't satisfied?  
 9 A. Obviously not.  
 10 Q. Okay. Okay. Right.  
 11 A. Because when something wasn't --  
 12 Q. Right. I understand that. Okay.  
 13 A. Yeah.  
 14 Q. Okay. Was there anything that -- in writing that  
 15 memorialized this conversation? Did you get any --  
 16 any letter? I know what we have on the September 2nd,  
 17 and we're going to get to that. But is there anything  
 18 other than that September 2nd that would have said  
 19 there's not going to be a foreclosure sale?  
 20 A. The phone conversation.  
 21 Q. I'm talking about in writing.

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14 A. No. He did it as a representative --  
 15 Q. Right.  
 16 A. -- for me as -- because that's what I believe HUD  
 17 does, is they -- they --  
 18 Q. And you didn't -- you don't -- so I'm just trying to  
 19 clarify. You don't know the number he called for  
 20 Ocwen?  
 21 A. I can't say for sure.  
 22 Q. Right.  
 23 A. I mean --  
 24 Q. Right. Right. Was that call that you had, was that  
 25 made on your landline or your cell phone, if you  
 0079 recall?  
 1 A. I believe it was on my landline, because I don't think  
 2 it would have been on my cell phone for that long of a  
 3 time period, but I know at one time the phone was cut  
 4 off and then he had to call me back and that had  
 5 happened, but -- yeah.  
 6 Q. Okay. Yeah. If you -- I'd like, if you can recall,  
 7 the name of that Ocwen person. If you can't, you  
 8 can't.  
 9 A. Well --  
 10 Q. But you don't think it was Mr. Kumar?  
 11 A. I don't -- not on that date. I don't --  
 12 Q. Right.  
 13 A. I can't say for sure. I really can't.  
 14 Q. It was a man though?  
 15 A. I believe it was a man.  
 16 Q. Okay.  
 17 A. I can't -- I don't want to say for sure about the  
 18 Kumar person because I just don't know specifically if  
 19 that's who it was on the phone.  
 20 Q. Okay.  
 21 A. I have to be sure that that was him, but I'm sure  
 22 they'll have note of who did this.  
 23 Q. Okay. And so this was sent to you?  
 24 A. Uh-huh.  
 0080  
 1 Q. And then you got this and you called Mr. Stacks as a  
 2 result of this e-mail?  
 3 A. No. I got this after the phone call with Mr. Stacks.  
 4 Q. Oh, you got this e-mail from Ocwen after?  
 5 A. Yeah.  
 6 Q. Okay.  
 7 A. This is the result of. The conversation was that I  
 8 was going to be reviewed for a loan modification.  
 9 Q. Okay.  
 10 A. They said that --  
 11 Q. So --  
 12 A. -- I would be reviewed.  
 13 Q. All right. I'm just trying to be clear.  
 14 So that conversation could have been on  
 15 September 1st --  
 16 A. Uh-huh.  
 17 Q. -- or maybe, like, a day or two before?  
 18 A. Uh-huh. Yes.  
 19 Q. Okay.  
 20 MS. MEEKS: Yeah. I just want you to  
 21 answer out loud.  
 22 THE WITNESS: Yes.  
 23 BY MS. LAPIN:  
 24 Q. Okay. All right. What are you looking at? Are you

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10 we consider your request we will not initiate a new  
11 foreclosure action and we will not move ahead with the  
12 foreclosure sale on an active foreclosure as long as  
13 we have received all the required documents and you  
14 have met the eligibility requirements.

15 A. Uh-huh.

16 Q. Wouldn't you agree that that doesn't result in a  
17 promise? There have to be two conditions met?

18 MS. MEEKS: Objection. Form, foundation  
19 and relevance. Go ahead, Lea, if you understand the  
20 question.

21 THE WITNESS: Could you repeat that then?

22 BY MS. LAPIN:

23 Q. Sure. I read that sentence --

24 A. Uh-huh.

25 Q. -- the second sentence under after you apply. So it

0084

1 says while we consider your request we will not  
2 initiate a new foreclosure action and we will not move  
3 ahead with the foreclosure sale on an active  
4 foreclosure as long as we receive all required  
5 documents and you have met the eligibility  
6 requirements.

7 A. Uh-huh.

8 Q. So I'm -- my question to you is --

9 A. Yes.

10 Q. -- wouldn't you agree with me that that is not a  
11 promise to do anything until you have satisfied -- or  
12 there have been two conditions satisfied: No. 1 being  
13 documents -- required documents received and that  
14 you're deemed eligible?

15 MS. MEEKS: I'll object to that. It calls  
16 for a legal conclusion as well.

17 THE WITNESS: Yeah. Because in my opinion  
18 it means that we're being reviewed and nothing can  
19 happen.

20 BY MS. LAPIN:

21 Q. Okay.

22 A. And --

23 Q. That's your interpretation of the document?

24 A. And my interpretation is we are supposed to be  
25 reviewed --

0085

1 Q. Okay.

2 A. -- and that we wouldn't be foreclosed on. And I was  
3 waiting to hear that, but then we were foreclosed on.  
4 And I think it does -- I don't think that they're  
5 supposed to foreclose within a 90-day period being  
6 reviewed either as I looked at that further on later.

7 Q. Before this e-mail do you recall when your last  
8 written correspondence with Ocwen was? Would you be  
9 able to have paperwork that would show that?

10 A. Besides this?

11 Q. Yes. If this is dated September 1st, when is the last  
12 time you would have received anything from them in  
13 writing, if you recall? And if you don't have the  
14 document with you, I understand.

15 A. Yeah, I can't recall specifically, but --

16 Q. Okay.

17 A. -- the foreclosure happened.

18 Q. Right. And then the next -- my same question would be  
19 when was the last oral communication with somebody  
20 from Ocwen right before September 1st, 2012, if you

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13 they -- the quickest way for them to get it was going  
14 to be the e-mail.  
15 Q. Right. Did you ever receive confirmation that all the  
16 required documents were received?  
17 A. I -- I can't recall specifically right at this time.  
18 I would have to -- I -- I believe so.  
19 Q. Okay.  
20 A. That -- I believe -- I believe that they received  
21 everything because they didn't call and ask me for  
22 anything, because I was -- on this letter it says no  
23 news is good news. I was told not to send anything  
24 else.  
25 Q. Okay. So you're saying that you didn't get a call or  
0096 you didn't get a letter that said all the documents  
1 were received; right?  
2 A. I don't believe so.  
3 Q. Okay.  
4 A. I -- I -- I can't recall that specifically though, and  
5 I would have to look to see, but I believed we were in  
6 a review process. They got it.  
7 Russell Stacks did call me a week later  
8 though. He -- he did call a week later though, and I  
9 think he checked back with them, but I would have to  
10 look back on that too.  
11 Q. All right.  
12 A. You could probably get verification from him too,  
13 because I think they did a follow-up.  
14 Q. Okay.  
15 A. If I recall correctly, if I'm thinking about this --  
16 there's a lot of stuff that happened, but they did a  
17 follow-up with them.  
18 MS. MEEKS: They did a follow-up with who?  
19 THE WITNESS: Russell Stacks did a  
20 follow-up with Ocwen.  
21 MS. MEEKS: Thank you.  
22 THE WITNESS: And he also did a follow-up  
23 with me and asked about did -- you know, did I do what  
24 I was supposed to do following up with giving the  
25 documentation and everything like that, and I said  
0097 that I did.  
1 (Mr. Etts re-entered deposition room at  
2 12:10 p.m.)  
3 BY MS. LAPIN:  
4 Q. Do you have any letters or anything from Russell  
5 Stacks or was it more just conversations with him over  
6 the phone?  
7 A. No. There was a conversation over the phone.  
8 Q. E-mails maybe?  
9 A. No. There was a letter sent that we used that -- that  
10 we had to use the -- his services.  
11 Q. Okay. Did Ocwen ever tell you that you satisfied all  
12 of the eligibility requirements?  
13 A. No. Because we were always in a review. I -- we were  
14 still in the review process.  
15 Q. Okay.  
16 A. Or do you mean over the phone or what do you mean?  
17 Q. Well this said -- the letter says you're going to be  
18 considered.  
19 A. Uh-huh.  
20 Q. Your eligibility will be considered. And I'm asking  
21 you did Ocwen ever tell you, whether it was in writing  
22  
23



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24 or oral, that you satisfied all of the eligibility  
25 requirements?

0098

1 A. When we were on the phone, they did a financial over  
2 the phone to go to the next step.  
3 Q. When?  
4 A. You have to do a financial.  
5 Q. When was that?  
6 A. That was in September, the phone conversation that  
7 we're talking about between Russell Stacks and Ocwen.  
8 To be able to get to this next phase you have to be  
9 able to submit if you even are pre-qualified.  
10 Q. I guess I'm confused here, because I thought you had  
11 the conversation and then you sent this in?  
12 A. Yes. But they did a verbal over the phone. Over the  
13 phone they were asking for financials.  
14 Q. Okay. That's fine. My question is did they ever tell  
15 you point-blank at anytime after September 1st, 2012  
16 that you satisfied all of the eligibility  
17 requirements?  
18 A. No. Because I submitted everything. I was --  
19 Q. You wouldn't know --  
20 A. -- wait for a response.  
21 Q. Okay.  
22 A. Right. Because it was --  
23 Q. Okay.

MS. MEEKS: Just answer the question.

THE WITNESS: Okay.

0099

1 BY MS. LAPIN:  
2 Q. Do you have any evidence that Ocwen never considered  
3 your application that you sent in subsequent to  
4 September 1st, 2012? And I'll qualify that. If it's  
5 considered an application for purposes of this  
6 deposition, we'll say that it is. Do you have any  
7 evidence that they never considered it?  
8 A. They foreclosed.  
9 Q. So your testimony is because there was a foreclosure  
10 that meant they never considered it?  
11 A. Never heard back.  
12 Q. Okay.  
13 A. They foreclosed. I thought we were in a review. They  
14 foreclosed on us.  
15 Q. Okay. So -- and I had asked you this earlier. You  
16 don't have any written documentation that -- that --  
17 from Ocwen that tells you, hey, we're not considering  
18 your application?  
19 A. Do I have any evidence or --  
20 Q. Anything in writing.  
21 A. That they're not considering my application?  
22 Q. Correct.  
23 A. Not that I am aware of.  
24 Q. Okay.  
25 A. I've -- they sent a letter after the foreclosure

0100

1 happened.  
2 Q. We'll get to that.  
3 A. Yeah.  
4 Q. We'll get to that.  
5 Paragraph 37 of the complaint -- second  
6 amended complaint rather -- says, at the end,  
7 Defendant Ocwen had already confirmed receipt in  
8 September of 2012 of the requested documents and no

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12 Q. You did not redeem the property?  
13 A. No.  
14 Q. Did you attempt to redeem the property?  
15 A. Did we attempt to redeem the property?  
16 Q. Yes.  
17 A. How so? I mean, in what way?  
18 Q. I don't know. I don't know. Did you take any steps  
19 to do that?  
20 A. Yes.  
21 Q. What did you take to attempt to redeem the property?  
22 A. We -- we retained legal counsel to try to --  
23 Q. Okay.  
24 A. -- resolve the situation.  
25 Q. Okay. Let me ask it this way then.

0113  
1 Did anybody from Ocwen or Deutsche Bank  
2 prevent you from redeeming the property?  
3 MS. MEEKS: I'll object to that. It calls  
4 for a legal conclusion. Form. Foundation. Go ahead.  
5 THE WITNESS: Can you repeat that?  
6 BY MS. LAPIN:  
7 Q. Sure. Did anybody from Ocwen or Deutsche Bank, who  
8 you're suing in this lawsuit, prevent you from  
9 redeeming this property?  
10 A. I would say yes, because we -- we were trying to get a  
11 loan modification, and so they prevented us from  
12 redeeming the property because they didn't undo  
13 anything that they had done. I mean, I'm not sure if  
14 I'm answering the question correctly, but that's --  
15 when you say prevent, yes, they did.  
16 Q. Okay. Did they tell you not to redeem?  
17 A. Did they tell us?  
18 Q. Yes.  
19 A. No. Because I didn't speak to them.  
20 Q. Okay. Did you have funds that were available to  
21 you -- what I mean, I mean you and your husband --  
22 that you could have used to redeem the property?  
23 A. No. That's why we were filing for a loan  
24 modification. We had looked to file a loan  
25 modification.

0114  
1 Q. Okay. So are you saying -- if you had the funds to  
2 redeem, would you have redeemed the property?  
3 A. I can't answer that question right now.  
4 Q. I guess my -- my -- when I had asked you earlier about  
5 did you a attempt to redeem, was there any attempt  
6 that you go to Ocwen or Deutsche Bank and say, look,  
7 you want X amount to redeem, we're prepared to offer  
8 you a different amount? Was there any negotiation  
9 like that?  
10 A. All our communication was through our attorney.  
11 Q. Okay.  
12 A. We didn't have any direct communication with Ocwen or  
13 Deutsche Bank.  
14 Q. Okay.  
15 A. Everything was through Ms. Meeks.  
16 Q. Okay. Did you consider an option of making any sort  
17 of redemption payment?  
18 A. Are you talking about -- in what month?  
19 Q. During the six-month redemption period.  
20 A. Did we look at making a payment or --  
21 Q. Did you consider the option of redeeming the property  
22 at all during the six-month redemption period?

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23 A. I can't really answer what I felt like or thought of  
 24 back in that time. We were trying to redeem the  
 25 property because of the process in which it was  
 0115 foreclosed upon, is where -- we looked to do. which I  
 1 know is not relevant, but at the time it was relevant,  
 2 because we felt like it was done -- and that's why we  
 3 then sought out legal counsel to get that resolved.  
 4 Q. You knew you had a six-month redemption period;  
 5 correct?  
 6 A. We were aware of that, but --  
 7 Q. Okay.  
 8 A. -- we also know it had to get -- it was -- I don't  
 9 know if you want to use the word prolonged or  
 10 whatever -- because the lawsuit didn't -- it wasn't  
 11 able to be condensed during that time.  
 12 Q. Correct. And you know that your lawsuit did not ask  
 13 for the redemption period to be continued? Are you  
 14 aware of that?  
 15 MS. MEEKS: I'll object. Calls for a legal  
 16 conclusion. Form. Foundation.  
 17 THE WITNESS: when you say that our lawsuit  
 18 didn't ask for the redemption period to be --  
 19 BY MS. LAPIN:  
 20 Q. Extended.  
 21 A. Okay. I wouldn't be aware of if --  
 22 Q. Okay.  
 23 A. -- it was allowed to be or not.  
 24 Q. Okay.  
 25 0116 A. Because that's why I have an attorney.  
 1 Q. Okay.  
 2 A. I don't know about that, but I know that we -- the  
 3 lawsuit wasn't able to happen during that time period,  
 4 so -- a resolution of.  
 5 Q. But, I mean, it seems too based on what you said  
 6 earlier, redemption was not going to be likely anyway  
 7 because of your financial situation?  
 8 A. We could -- we were looking to resolve the foreclosure  
 9 issue --  
 10 Q. Correct.  
 11 A. -- and redeem the property through those means.  
 12 Q. Okay. And I understand. But I'm asking you  
 13 pointblank did you have the financial means to redeem  
 14 the property at anytime during the six-month  
 15 redemption period?  
 16 A. I can't state exactly if that was even a -- what would  
 17 have been an option to us, because we were not of the  
 18 understanding to seek out remedies to make that happen  
 19 at the time, to ask people -- you know, ask for a loan  
 20 from somebody, anything along those lines, because in  
 21 my mind it -- it couldn't -- it isn't going to be able  
 22 to happen until we were in the lawsuit. That's why we  
 23 had the lawsuit.  
 24 But I -- had I known, I could have asked or  
 25 0117 something, but I didn't because we were in the  
 1 lawsuit. Also, the number of what -- the price of  
 2 what we owed for the house was different than what --  
 3 what was stated at the -- you know, at the sale, so --  
 4 Q. Did you ask anybody for a loan during that -- during  
 5 the six-month redemption period?  
 6 A. No. Because we were in the middle -- because we had

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once before, that you supplied documents and were told you couldn't get a loan modification. So you knew it happened before, and I guess knowing that I don't understand -- or I guess I'm just questioning why you thought that there was such a guarantee, especially based on the writings which don't make a promise.

MS. MEEKS: I'll object to the form of the question. I don't think that it's ever been suggested that there was a guarantee of a loan modification by the Etts, nor is that claimed. Go ahead, Lea.

THE WITNESS: Because when I would call about that, then they would say to redo it again. And they would also send letters in the mail for us to send letters. You -- you may qualify for a loan modification.

BY MS. LAPIN:

Q. When are we talking about here?

A. Several letters that I received even after -- in the meantime and after the fact they would call.

Q. What dates? Are you talking --

A. I would have to go back and look at those dates.

Q. Are you talking before September 1st, 2012?

A. Yes.

Q. Okay. Okay. Before -- have you ever tried to refinance the property?

A. No. Because we were in a -- we did not try to refinance the property because we were in a loan with -- in the loan modification process and also because of the trial payments that I had made. It put me further behind in the mortgage payments as it states on there, that I told you when I paid. Their clarification of the last time I paid is different because of those three trial payments that I made. And then I increased my payment thereafter and submitted more documents, submitted more documents, so I didn't try to refinance because --

Q. So you have never tried to refinance the property, say, from what, 2009 to the present then; is that what you're saying?

MS. MEEKS: I'll object to the form and foundation. I guess we may need to clarify what you mean by refinance.

MS. LAPIN: Well I'm going off what the complaint says.

MS. MEEKS: Okay. Which is?

BY MS. LAPIN:

Q. You're saying that this foreclosure somehow prevented

you from refinancing the existing loan, and I just want to know what -- to me that contemplates you were considering a refinance, so how did the foreclosure prevent you from seeking a refinance?

MS. MEEKS: I'm going to object to the characterization. The allegation is that because the representation was made they would be reviewed for a modification they did not pursue those actions. Had they known that no modification was even going to be considered, then they would have pursued these other options.

MS. LAPIN: Okay.

MS. MEEKS: So with that in mind --

THE WITNESS: Yes.

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15 BY MS. LAPIN:

16 Q. I'll disagree with that characterization, because you  
17 never got a promise. So my -- my question is you  
18 never considered attempting to seek a refinance?

19 A. I didn't because I thought we were being --

20 Q. Reviewed.

21 A. -- a loan modification. I thought that we were going  
22 to -- I was in the process of trying to get a loan  
23 modification.

24 Q. And there -- and so you knew -- you say you were in  
25 the process of trying to get one. You knew -- you --

0125 1 you know you were not necessarily guaranteed that you  
2 were going to get one; correct?

3 A. Did I know I was guaranteed?

4 Q. Yes.

5 A. No. I don't think that I said I was guaranteed, but I  
6 needed to be considered. Reviewed.

7 Q. So what would have happened if you got -- if you had  
8 gotten something from -- you -- something from Ocwen  
9 that said you're not, and you say you didn't get that,  
10 what would you have done?

11 A. If I was -- they said stop sending me documents, don't  
12 apply for a loan modification?

13 Q. Yes.

14 A. I would have done something different.

15 Q. What would you have done?

16 A. I don't -- I don't know because I can't speak of that  
17 time because it didn't happen. I can't go backwards.  
18 I can only tell you what I felt in the moment, and my  
19 sole focus was on listening to what they had to say  
20 about a loan modification back -- from 2009 up until  
21 2012. And I did what they asked me to do, and I  
22 believed what they were saying and I did what they  
23 asked me to do.

24 Q. Did you -- no one stopped you from going to talk to  
25 another mortgage lender or, you know, a bank about a

0126 1 refinance at anytime between 2000 -- January 1st, 2012  
2 and the time that the lawsuit was filed; correct?

3 A. Right.

4 Q. And what was your credit like in -- in, say, like, the  
5 fall of 2012; do you know?

6 A. Not good. Because it was showing past -- you know,  
7 payments about this too, so --

8 Q. Were they showing -- but were they also showing past  
9 due payments on other -- on other --

10 A. I'd have to look --

11 Q. -- bills you had?

12 A. -- back to see.

13 Q. Okay.

14 A. I can't recall specifically.

15 Q. Do you even know if you would have qualified for a  
16 refinance?

17 A. Well since they were saying I hadn't made a payment  
18 since 2010, I don't know that I would have.

19 Q. Okay.

20 A. But that's not true.

21 Q. Who is telling you -- who told you you wouldn't have  
22 qualified?

23 MS. MEEKS: I'll object to the question.  
24 It calls for a legal conclusion or outside the scope  
25 of this witness's knowledge.

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1 THE WITNESS: But I didn't seek that  
 2 remedy --  
 3 BY MS. LAPIN:  
 4 Q. Okay.  
 5 A. -- because I thought that I was getting -- I know I'm  
 6 sounding redundant.  
 7 Q. No. No. I understand what you're saying.  
 8 A. But because of the loan modification -- I wanted to  
 9 have the loan modification with them and not have to  
 10 do anything else. It was with them, you know --  
 11 Q. I understand you chose not to seek a refinance review.  
 12 That's all I'm asking.  
 13 A. Only because -- because Ocwen, and before that  
 14 Litton -- we were in a review process for a loan  
 15 modification. You can keep applying for that.  
 16 Q. Okay. Even though it had not occurred before?  
 17 A. Uh-huh. I could go into more detail about it, but I'm  
 18 not --  
 19 Q. No.  
 20 A. -- going to because it's not relevant to the question.  
 21 Q. Did you pursue a short sale?  
 22 A. It wasn't offered to us. One time I think that it was  
 23 offered but they -- they -- it wasn't Ocwen. It was  
 24 Litton, and the paperwork came in afterwards.  
 25 Q. Did you yourself go to talk to a Realtor and -- and --

0128

1 at any point, say, between 2009 and the time of this  
 2 foreclosure sale about doing a short sale?  
 3 A. Did I talk to a Realtor?  
 4 Q. Yes.  
 5 A. No. The only -- not that I can recall. I can't  
 6 remember specifically if I talked to any Realtor, but  
 7 not about a short sale because I didn't think that's  
 8 who you talked to about it.  
 9 Q. Did you ever list your house for sale between 2009 and  
 10 the date of the foreclosure sale?  
 11 A. I can't -- not with a Realtor or -- I can't recall.  
 12 Q. Or on your own or you listed it for sale by owner.  
 13 A. There was one time that we listed the house for sale  
 14 at one point, but that could have even been before  
 15 this. I would have to look --  
 16 Q. Okay.  
 17 A. -- and see when that was, because we advertised, I  
 18 think, for a weekend. And I can't remember if it was  
 19 before Troy got ill or after. I can't remember.  
 20 Q. So you never -- okay. So a short sale was never on  
 21 your radar, so to speak --  
 22 A. No.  
 23 Q. -- in terms of this?  
 24 A. Because when -- Titanium Solutions was then sent to  
 25 our home as well. All this to get --

0129

1 Q. That was back in 2009?  
 2 A. -- to get me to -- no. No. They were sent again --  
 3 Q. when?  
 4 A. -- two other times --  
 5 Q. when?  
 6 A. -- by Litton. In -- between 2010 and 2011. Came to  
 7 our home -- in fact, the man that sat at my table with  
 8 me got a phone call with Litton. I have that date  
 9 specifically documented.  
 10 Q. What's the date?

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11 A. He came to us to apply for a loan modification.  
 12 Q. What's the date, do you know?  
 13 A. I would have to get that specifically to you. I think  
 14 that it was on that log of paperwork that I had.  
 15 Q. Okay.  
 16 A. His name was Ernie Mull --  
 17 Q. Monholland [phonetic]?  
 18 A. Yes.  
 19 Q. Okay. That's on your witness list?  
 20 A. He came to our house seeking for us to apply for a  
 21 loan modification. He was hired by Litton to come to  
 22 us.  
 23 Q. Okay. I'm just asking, you never contemplated a short  
 24 sale? Is that -- that's what I'm asking you; correct?  
 25 A. No. Because --  
 0130  
 1 Q. Okay.  
 2 A. -- I always thought about the loan --  
 3 MS. LAPIN: Just answer the question yes or  
 4 no.  
 5 THE WITNESS: Yes.  
 6 BY MS. LAPIN:  
 7 Q. Okay. Okay. And you said that you were considering  
 8 bankruptcy? Were you considering bankruptcy before  
 9 the foreclosure?  
 10 A. Yes.  
 11 Q. Okay. When were you considering bankruptcy?  
 12 A. Right before I talked to the HUD counselor and Ocwen.  
 13 Q. So what; around September 1st?  
 14 A. Right before that.  
 15 Q. Who -- did you speak to a bankruptcy attorney?  
 16 A. Erik Stein. The paperwork was in -- filled out and it  
 17 was going to be filed. It was stopped because of  
 18 the --  
 19 Q. Did you --  
 20 MS. MEEKS: Wait. Wait. Finish your  
 21 answer please.  
 22 THE WITNESS: It was stopped because of the  
 23 September 1st phone call with Ocwen and the HUD  
 24 counselor, and the loan modification and the  
 25 foreclosure sale was going to be stopped. And that is  
 0131  
 1 why I didn't continue with the bankruptcy, because I  
 2 didn't need to.  
 3 BY MS. LAPIN:  
 4 Q. So you -- you actually signed bankruptcy paperwork?  
 5 A. I can't remember if we signed -- it wasn't finalized.  
 6 I would have to get the paperwork back from him again  
 7 to see finalization, but we were in the process of --  
 8 of doing it. And we didn't. I told them to stop, not  
 9 to do it because we didn't need to anymore.  
 10 Q. And how come you haven't done it since?  
 11 A. We didn't need to. I don't understand that question.  
 12 Q. Okay. I'm just asking you why didn't you file for  
 13 bankruptcy after you found out that the foreclosure  
 14 sale occurred up till even the present time?  
 15 A. I guess I'm not understanding why --  
 16 Q. Well, put it this way.  
 17 You found out that the foreclosure sale had  
 18 occurred; right?  
 19 A. Uh-huh. Right.  
 20 Q. Why didn't you follow through with the bankruptcy at  
 21 that time?



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7 Q. well, I think one allegation or complaint is that  
8 there's been -- the foreclosure somehow prevented you  
9 from renting the property and relocating, and I just  
10 want to know how did it do that?  
11 A. Options. Opportunities and options of what we could  
12 do. I would -- maybe we could have left the property  
13 and gone to live someplace else and rented the  
14 property out for what our payment was until -- but  
15 there wasn't an opportunity to do any of that.  
16 Q. why wasn't there an opportunity to do any of that?  
17 A. The house was foreclosed on.  
18 Q. How did that prevent you from -- how did that prevent  
19 you -- the act of foreclosing, how did that prevent  
20 you from relocating your property and renting it out?  
21 A. So -- can you -- can you explain -- clarify to me what  
22 you're asking? Because I think I'm confused.  
23 Q. Sure. well, you're saying in this lawsuit that the  
24 foreclosure and/or comment about looking to see if you  
25 can get a loan modification somehow prevented you from

0135  
1 renting your property and relocating, and I'm trying  
2 to see how did that do that?  
3 A. well, because when -- for a loan modification you have  
4 to live on the property. You can't get a loan  
5 modification if you rent the property out, so when I  
6 was --  
7 Q. who told you that?  
8 A. well, I believe that that's -- they always ask you if  
9 that's your primary residence for the property, and  
10 you have to be -- that has to be your primary  
11 residence to get a loan modification. If I was -- I  
12 don't see how -- I'm not -- anyways, I'll -- finish  
13 the question.  
14 Q. Okay. Because my question is based on something  
15 you're saying in the complaint.  
16 A. Uh-huh.  
17 Q. You're saying that this prevented you from doing that,  
18 so how did it prevent you from doing that if you were  
19 not even going to consider doing it in the first  
20 place?  
21 A. If we never -- because of the loan modification and  
22 continuing to keep applying for the loan modification  
23 I didn't look at any other options to do that because  
24 that could have been an option, but I wasn't -- I kept  
25 applying for a loan modification because I have to

0136  
1 live on that property.  
2 Q. Okay. where did you ever -- did you ever consider  
3 relocating anywhere?  
4 A. No. Because I was in the process of --  
5 Q. Okay.  
6 A. I could have. We could have moved with my dad,  
7 something. But it wasn't an option because --  
8 Q. why wasn't it an option?  
9 A. We were always --  
10 MS. MEEKS: One at a time.  
11 THE WITNESS: Okay.  
12 MS. MEEKS: Finish your answer, Lea.  
13 THE WITNESS: We were always in a loan --  
14 we were always trying to seek the loan modification.  
15 BY MS. LAPIN:  
16 Q. Correct. But no one had ever told you as you were  
17 going through this process that you were going to get